

Remarks

Claims 1 and 4-28 are pending in this application. In a final Office Action dated June 30, 2005, the Examiner rejected claims 1, 4-10, and 21-28 as being unpatentable under 35 U.S.C. § 103(a) over U.S. Patent No. 5,600,710 to Weisser, Jr. *et al.* (Weisser) in view of U.S. Patent No. 6,597,780 to Knoerle *et al.* (Knoerle) and in further view of U.S. Patent No. 5,668,861 to Watts (Watts). The Examiner rejected claims 11-20 under 35 U.S.C. § 103(a) as being unpatentable over Weisser in view of Knoerle. The Examiner also rejected claims 1, 4-10, and 21-28 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 5,844,896 to Marks *et al.* (Marks). Applicants respectfully disagree with the Examiner's rejections and request reconsideration in light of the following arguments.

A. Double Patenting Rejections

The Examiner rejected claims 1, 4-10, and 21-28 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of Marks. Independent claims 1, 11, 21 and 28 provide, *inter alia*, for an intelligent peripheral (IP) that determines if a subscriber line is busy by placing a call to the subscriber line ("determining that the subscriber line is not busy by dialing the subscriber line from the intelligent peripheral," "place a busy check call to the subscriber line," "placing a call from the intelligent peripheral to determine if the subscriber line is still busy," and "placing a busy check call from the intelligent peripheral to a subscriber line," respectively).

The Examiner asserts that independent claims 1, 11, 21 and 28 are not patentably distinct from Marks. However, Marks teaches and claims placing a call from the IP to the subscriber line after determining that the subscriber line is idle.

1. For use in an Advanced Intelligent Network . . .
a method of routing a telephone call from a Caller to a
Subscriber line, comprising:
* * *

placing a call at the IP to the Subscriber in response to
a determination that the Subscriber's line is idle; . . .

Marks' claim 1 does not read on Applicants' claims 1, 11, 21, or 28. Nor do Applicants' claims 1, 11, 21 or 28 read on Marks' claim 1. The present application and Marks claim two

different techniques. Thus, Marks neither teaches nor fairly suggests Applicants' claimed invention.

B. The § 103 Rejections

The Examiner rejected claims 1, 4-10, and 21-28 as an obvious combination of Weisser, Knoerle and Watts, and rejected claims 11-20 as an obvious combination of Weisser and Knoerle.

Claim 1 provides a method of queuing calls to a subscriber of queuing services accessed through a subscriber line. Call Forward on Busy Line is provisioned on the subscriber line to permit detecting a call to the subscriber line at a local switch connected to the subscriber line. If the subscriber line is busy, the call is forwarded to an intelligent peripheral within an Advanced Intelligent Network (AIN) telecommunications system. The call to the subscriber is queued in the intelligent peripheral. **A determination is made that the subscriber line is not busy by dialing the subscriber line from the intelligent peripheral.** If a call is queued in the intelligent peripheral and the subscriber line is determined to be not busy, the call to the subscriber is connected with the subscriber line.

The Examiner rejected claim 1 based on Weisser, Knoerle and Watts. The Examiner admits that neither Weisser nor Knoerle disclose determining if a subscriber line is busy by placing a call to the subscriber line from an intelligent peripheral in which a call to the subscriber line is queued.

On one hand, the combination of Weisser in view of Knoerle did not specifically teach the claimed limitation of "dialing the subscriber line from the intelligent peripheral".

Office Action, pg. 4 (underline in original.)

To make up for this lack of disclosure, the Examiner proposes Watts.

On the other hand, examiner now would like to introduce Watts reference, which teaches a telecommunication system with a notification hold feature. Watts discloses if a called telecommunications device 18 disconnects, then intelligent peripheral 40 will initiate a call to the calling communications device 12 (see col. 3, lines 66-67, col. 4, lines 1-7 and Fig. 1).

Office Action, pp. 4-5.

Taking the Examiner's representation of Watts as correct, the Examiner's combination fails for two reasons. First none of the art cited teaches or fairly suggests placing a call from the IP for the purpose of determining if the subscriber line – the called party – is busy. Watts teaches calling the calling party from an IP after the calling party is disconnected (virtually guaranteeing the calling party is not busy), for the purpose of reconnecting the calling party. Since none of the references teach or fairly suggest determining “that the subscriber line is not busy by dialing the subscriber line from the intelligent peripheral” as provided in claim 1, the Examiner has failed to establish a *prima facie* case.

Moreover, combining Watts with Weisser and Knoerle, as described by the Examiner, has no chance of success. Watts teaches calling the calling party. If the calling party is queued in the IP, and the IP calls the calling party, there is a 100% chance the line will be busy. The combination proposed by the Examiner is inoperative.

Claim 1 is patentable over any combination of Weisser, Knoerle and Watts. Claims 4-10, which depend from claim 1, are therefore also patentable.

The Examiner rejected claims 21 and 28 “for the same reasons as discussed above with respect to claims 1.” While not agreeing that these claims have the same scope, claims 21 and 28 are patentable over any combination of Weisser, Knoerle and Watts for the same arguments provided for claim 1. Claims 22-27 depend from claim 21 and are, therefore, also patentable.

Independent claim 11 provides a system for queuing subscriber calls within an Advanced Intelligent Network (AIN) telecommunications system. Each subscriber call is placed by a caller to a subscriber line. The system includes a local switch servicing the subscriber line and an IP within the AIN system. The local switch includes Call Forward on Busy Line functionality provisioned on the subscriber line. The Call Forward on Busy Line functionality forwards any subscriber call received for the subscriber line when the subscriber line is busy. The IP receives any forwarded subscriber call from the local switch. If queue slots are available in the intelligent peripheral, the received subscriber call is queued. **The IP places a busy check call to the subscriber line.** If the busy check call is forwarded back to the intelligent peripheral from the local switch, the busy check call is dropped. If the subscriber line is not busy, a queued subscriber call is connected to the busy check call.

Despite having previously admitted that neither Weisser nor Knoerle disclose placing a busy check call from the IP, the Examiner rejected claim 11 as an obvious combination of Weisser and Knoerle. In fact, the Examiner failed to even mention this limitation in his argument.

Regarding claim 11, Weisser teaches . . . if the subscriber line is busy queuing the call to the subscriber (see col. 9, lines 12-15); determining that the subscriber line is determined to be not busy, connecting the call to the subscriber with the subscriber line (see col. 9, lines 4-6).

Office Action, pg. 8.

The Examiner points to no disclosure in either reference of the limitation that the IP “place a busy check call to the subscriber line” as provided in claim 11. The Examiner has, by definition, failed to establish a *prima facie* case of obviousness.

Since neither reference cited by the Examiner teaches or fairly suggests Applicants’ intelligent peripheral, claim 11 is patentable over any combination of Weisser and Knoerle. Claims 12-20, which depend from claim 11, are therefore also patentable.

C. The “Camp On Busy” Argument

In his Response to Arguments section, the Examiner states:

The claimed invention is basically a combination of two old and well known features, namely; the “camp on busy” feature and the use of an IP in an AIN. The Camp on busy feature is old and it has been assigned its own subclass in the PTO form many years. Class 379, subclass 209.01 specifically refers to the “Camp on busy” features which means hold in a queue if the called destination is busy until the destination becomes available. For many years callers wait in a queue (“hold”) until the destination becomes idle. Also, the use of an IP to perform some AIN functionality is old and well know.

Office Action, pg. 12.

To begin, the Examiner's definition of camp-on busy is not entirely accurate.¹ More importantly, there is no mention, in either the claims or the specification of the present application, of the use of a camp-on busy feature for determining if the subscriber line is busy.

Applicant notes that, despite having an entire subclass devoted to this feature, the Examiner cannot find a single reference which teaches determining that a subscriber line is not busy by dialing the subscriber line from an intelligent peripheral queuing a call to the subscriber line.

Claims 1 and 4-28 are pending in this application. Applicants believe these claims meet all substantive requirements for patentability and respectfully request that this case be passed to issuance. No fee is believed due by filing this amendment. However, any fee due may be withdrawn from Deposit Account No. 21-0456 as specified in the Application Transmittal.

The Examiner is invited to contact the undersigned to discuss any aspect of this case.

Respectfully submitted,

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¹**camp-on busy signal** 1. A signal that informs a busy telephone user that another call originator is waiting for a connection. Federal Standard 1037C - August 7, 1996: Glossary of Telecommunication Terms, as quoted from <http://www.tiab2b.com/glossary>.